

**TREASURY - GENERAL**

**STATE INVESTMENT COUNCIL**

**Fixed Income Exchange-traded Funds**

**Proposed New Rule: N.J.A.C. 17:16-22**

Authorized By: State Investment Council, Peter A. Langerman, Acting Director  
Division of Investment

Authority: N.J.S.A. 52:18A-91

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2003-173

Submit comments by July 4, 2003 to:

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The agency proposal follows:

Summary

An exchange-traded fund (ETF) is a form of mutual fund that trades like a single stock. This instrument is a basket of stocks or bonds that reflects the composition of an underlying index such as the S&P 500 or the NASDAQ 100.

Investments in domestic fixed income ETFs will provide the Division of Investment with another vehicle for investing funds in the domestic fixed income portfolio. Exchange-traded funds will allow the Division of Investment to (1) invest funds quickly in diversified pools of fixed income securities when the Division determines that market volatility has created sudden

investment opportunities, and (2) invest in subsectors of the market that appear attractive when the Division does not have

the immediate capability to construct a diversified, actively-managed portfolio. Because the Division is providing a 60-day comment period on this notice of proposal, this notice is exempt from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

#### Social Impact

There shall be no social impact from the proposed new rules.

#### Economic Impact

The Division is already permitted to purchase ETFs for emerging markets equities pursuant to N.J.A.C. 17:16-46. Expanding the purchase of these securities will conform the rules to the practices under N.J.A.C. 17:16-46 and should not cause an economic impact. Rather, the earnings can potentially benefit the beneficiaries of the funds and the taxpayers of the State.

#### Federal Standards Statement

A Federal standards analysis is not required because the investment policy rules of the Division of Investment are under the auspices of the State Investment Council, and are not subject to any Federal requirements or standards.

#### Jobs Impact

The State Investment Council and the Division of Investment do not anticipate that any jobs will be generated or lost by virtue of the new rules.

#### Agriculture Industry Impact

The proposed new rules shall have no impact on the agriculture industry.

### Regulatory Flexibility Statement

A regulatory flexibility analysis is not required, since the proposed new rules imposes no requirements on small businesses as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., but regulate only the Director of the Division of Investment.

### Smart Growth Impact

The proposed new rules are not anticipated to have an impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

## **SUBCHAPTER 22. FIXED INCOME EXCHANGE-TRADED FUNDS**

### **17:16-22.1 Permissible investments**

(a) **Permissible investments include exchange-traded funds which invest primarily in domestic fixed income securities authorized pursuant to N.J.A.C. 17:16-11 through 21, are traded on the New York or American Stock Exchanges or the over-the-counter markets, and have a minimum market capitalization of \$100 million.**

(b) **The Director shall submit a list of fixed income exchange-traded funds to the Council for its approval. Such list may be amended or enlarged from time to time subject to the Council's approval and shall be designated the "Approved List of Fixed Income Exchange-traded Funds."**

(c) **The Director shall only select issues of fixed income exchange-traded funds from the "Approved List of Fixed Income Exchange-traded Funds" to be purchased by the pension funds.**

### **17:16-22.2 Applicable funds**

**(a) Applicable funds are as follows:**

- 1. Police and Firemen's Retirement System;**
- 2. Public Employees' Retirement System;**
- 3. State Police Retirement System;**
- 4. Teachers' Pension and Annuity Fund;**
- 5. Common Pension Fund B;**
- 6. Common Pension Fund D; and**
- 7. Judicial Retirement System of New Jersey.**

### **17:16-22.3 Limitations**

**(a) Not more than four percent of the market value of any pension fund shall be invested in a single fixed income exchange-traded fund.**

**(b) The total amount of shares or units purchased or acquired of any one fixed income exchange-traded fund shall not exceed five percent of the shares or units outstanding of any fixed income exchange-traded fund.**

SUBCHAPTERS [22] 23 THROUGH 30. (RESERVED)